

**LEGAL AID SOCIETY OF
SOUTHWEST OHIO, LLC**

AN AFFILIATE OF THE LEGAL AID SOCIETY OF GREATER CINCINNATI

August 22, 2007

**DONALD P. KLEKAMP
COMMUNITY LAW
CENTER BUILDING**

**215 East Ninth Street
Suite 500
Cincinnati, Ohio
45202**

Telephone
(513) 241-9400
(800) 582-2682

Facsimile
(513) 241-0047

Ben Mueller
1085 Tony Court
Cincinnati, OH 45238

Dear Mr. Mueller:

You contacted Legal Aid in our capacity as Ombudsman for the Metropolitan
Sewer District (MSD) Water-In-Basement Program.

~~MSD has accepted responsibility for the backup in your basement. You submitted
a claim to the City Solicitor's Office for damages to your basement and personal items. I
understand that you disagree with the amount that the City offered to pay.~~

You have the right to have your claim reviewed in Federal Court under the WIB
case. Last month the Magistrate Judge who oversees the WIB Consent Decree developed
a new procedure for homeowners to appeal MSD's decision. To exercise this right, you
would need to file a request to have your dispute reviewed in Federal Court. You would
also need to submit any additional information and documentation (photos, receipts, etc.)
to support your claim. The Court would review this information, provide you with a
hearing (if you want one), and assess whether the City's damage estimate is reasonable. If
you are going to exercise your right to the review process, you should file your request as
soon as possible.

As we discussed, I have enclosed a sample "counteroffer" letter that you can send
to the City Solicitor's Office. The City may be willing to reevaluate your claim before
you exercise your right to the review process in federal court.

Enclosed, you will also find the Right to Review form and information on the
Federal Court Review process. Legal Aid is happy to assist you in filling out these forms
and getting this process started. You may contact me directly at 362-2871, or Jessica
Powell, the Ombudsman for the MSD Water-In-Basement program, at the Ombudsman's
main number (362-2801), for further assistance.

Sincerely,

Rickell Howard
/lf

Rickell Howard
Law Graduate
Assistant to the Ombudsman
MSD Water-In-Basement Program
Direct Dial: (513) 362-2871

RH/lrf
Enclosures

LEGAL SERVICES IN

Brown County
Butler County
Clermont County
Clinton County
Hamilton County
Highland County
Warren County



SAMPLE LETTER

Terry Nestor
City of Cincinnati Solicitor's Office
801 Plum St., Room 214
Cincinnati, OH 45202
Fax: (513) 352-1515

Dear Mr. Nestor:

I live at [address]. I am writing to follow up on my damages claim with the City / MSD because of the sewage backup in my basement on [date].

On [date], I received an offer of \$[amount] on my damages claim from the City. I disagree with this amount. My counter-offer is \$[amount]**

If I do not hear back from the City by [date], I intend to file my Request for Review on this issue with the Federal Court.

Sincerely,

Name
Address
Phone number

****NOTE:** In your written counteroffer information you should include how much and/or whether you received any compensation from your insurance company (e.g. a receipt or document), and enclose that with this letter.

**CLAIMS REVIEW INFORMATION
(MSD WATER-IN-BASEMENT PROGRAM)**

- The Metropolitan Sewer District (MSD) created a Water-in-Basement (WIB) response program as part of a Federal Court Order to address problems with the Hamilton County sewer system.
- Under the WIB program, homeowners may have rights if they have sewer-related backups in their homes. For example, the City of Cincinnati and MSD must pay damages to homeowners caused by capacity-related backups.
- If you disagree with the City's decision on your claim, you may request a review of the decision by the Judge in Federal Court. Attached is a form that you can use to request a review.
- Information about completing the form:
 - You should file your Request for Review within **90 days** from the date of the City's decision to file a Request for Review.
 - If you need more than 90 days to prepare and file your Request for Review, contact the Legal Aid Ombudsman at (513) 362-2801 for information on how to request more time.
 - To prepare and file your Request for Review form, you need to:
 - ❖ Describe the nature of your dispute;
 - ❖ Attach a copy of the City's decision;
 - ❖ Specify the part of the City's decision that you disagree with;
 - ❖ Attach any relevant information or documents that support your position (receipts, photos, etc.);
 - ❖ Indicate whether you want a hearing before the Judge, or whether you want to submit a claim on the documents alone. (Note: the City might request a hearing even if you don't want one!)
 - ❖ **File your form in Room 103 of the Federal Courthouse at 100 E. 5th Street, Cincinnati, 45202, and send a copy to the City of Cincinnati, c/o Terry Nestor, 801 Plum St., Room 214, Cincinnati, OH 45202, and/or Fax: 513-352-1515.**
- The City has 30 days to file a response to your request for review.
- The Court should give you a hearing (if you want one) within 30 days of your request and a decision within 10 days of your hearing.
- The Ombudsman will not represent you at your Review Hearing. You can appear on your own, or you can bring an attorney.
- The Court will review all of the evidence presented by you and by the City or MSD. The Court can only consider your claim based on evidence you present (e.g., photos, receipts, etc.).
- **Call the Legal Aid Ombudsman at (513) 362-2801 if you have any questions or for more information.**